

JEFFREY K. STARNES
Assistant U.S. Attorney
U.S. Attorney's Office
P.O. Box 3447
Great Falls, MT 59403
119 First Ave N., Suite 300
Great Falls, MT 59401
Phone: (406) 761-7715
FAX: (406) 453-9973
E-mail: Jeff.Starnes@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. STANLEY PATRICK WEBER Defendant.	CR-18-14-GF-BMM UNITED STATES' RESPONSE TO DEFENDANT'S MOTION FOR DISCLOSURE OF GOVERNMENT'S INTENT TO USE CERTAIN EVIDENCE (Doc. 26)
--	--

BACKGROUND

Weber moves the Court for an order requiring the government to disclose its intent to use various types of evidence at trial. (Doc. 26). As set for more fully below, Weber's motion is more precisely described as a motion for discovery under Fed. R. Crim. P. 16(a). Because his motion requests the production of

information which the government was already required to produce by Rule 16, and because the United States has already complied with its discovery obligations, the motion is moot and should be denied.

LAW AND ARGUMENT

Rule 16 of the *Federal Rules of Criminal Procedure*, governs the United States' pretrial discovery obligations and requires the government to disclose certain items of evidence to the defense so that the defendant may prepare for trial. *See* Fed. R. Crim. P. 16(a)(1)(A)-(G). In general, the rule requires the government to provide to the defendant a copy of his oral or written statement (Rule 16(a)(1)(A)-(B), and a copy of the defendant's prior criminal record (Rule 16(a)(1)(D)).

Beyond those items, the government is only required to permit the defendant to inspect and/or copy documents or items within its control that are material to the defense, that the government intends to use during its case-in-chief, or which otherwise belong to the defendant (Rule 16(a)(1)(E)), and examine and copy the results of any scientific test in the government's possession which is material to the defense or which government intends to use during its case-in-chief (Rule 16(a)(1)(F)). Finally, the government is required to provide the defendant a written summary of any testimony it will proffer by an expert witness. Rule 16(a)(1)(G).

In this case, the United States has complied with its discovery obligations. On March 8, 2018, the United States distributed to the defense nearly all information in its possession that pertains to this investigation. This information included numerous items covered by the Jencks Act, which the government is not required to produce until after a witness has testified at trial. Furthermore, the United States notified that the defense that it may use any such information, including Weber's statements, his writings, and items seized pursuant to any search with or without a warrant, during its case-in-chief. Thus, the United States has already produced the items sought by this motion. Accordingly, it should be denied as moot.

In addition to the above, the United States has extended an offer to the defense to inspect any items within its possession that pertain to this case. To date, the defense has not acted upon the offer. However, the opportunity is still available to the defense if they wish to avail themselves of it.

CONCLUSION

Weber's motion seeks information that the United States has already disclosed pursuant to Rule 16, *Federal Rules of Criminal Procedure*. Because the United States has complied with its discovery obligations, Weber's motion is moot. Accordingly, the motion should be denied.

Respectfully submitted this 30th Day of April, 2018.

KURT G. ALME
United States Attorney

/s/ Jeffrey K. Starnes
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF COMPLIANCE

Pursuant to D. Mont. CR 47.2, the attached response is proportionately spaced, has a typeface of 14 points or more, and the body contains 604 words.

/s/ Jeffrey K. Starnes
Assistant U.S. Attorney
Attorney for Plaintiff